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\*\*\*\*\*PREVIOUSLY E-FILED IN THE MDL DOCKET, 15-MD-02617-LHK, ON JULY 6, 2015 (ECF NO. 16)\*\*\*\*\*

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE ANTHEM, INC. DATA BREACH  
LITIGATION

Case No. 15-MD-02617-LHK

## **ORDER RE PRELIMINARY CASE MANAGEMENT CONFERENCE**

By order of the Judicial Panel on Multidistrict Litigation (“JPML”), ECF No. 1, the instant actions were transferred and assigned to this Court for coordinated or consolidated pretrial proceedings under 28 U.S.C. § 1407. Additional tag-along actions may be transferred.

Because these cases merit special attention as complex litigation, the Court hereby  
ORDERS:

1.

## 1. Preliminary Case Management Services

*1.1. Date, Time & Location.* Counsel for all parties shall appear for a preliminary case management conference (“CMC”) on Friday, July 31, 2015, at 1:00 p.m. in the ceremonial courtroom on the 5th floor of the Robert F. Peckham Federal Building and U.S. Courthouse located at 280 South 1st Street, San Jose, California 95113. To facilitate matters, counsel may check in with the Courtroom Deputy beginning at 12 noon.

1                   1.2. *Purpose.* The purpose of the preliminary CMC is for the Court to learn about the  
2 nature and scope of this litigation, and for the Court to begin the process of appointing lead  
3 plaintiffs' counsel. The Court will not set a case schedule at the preliminary CMC. The Court  
4 will do so after lead plaintiffs' counsel has been appointed.

5                   2. *Preparations for the Preliminary Case Management Conference.*

6                   2.1. *Rules.* Counsel are expected to be familiar with the Manual for Complex Litigation,  
7 Fourth. Counsel are also required to review the Civil Local Rules for the Northern District of  
8 California, any applicable General Orders, and this Court's Standing Orders, all of which can be  
9 found on the Northern District of California website at <http://www.cand.uscourts.gov/lhk>.

10                  2.2. *Counsel Meet and Confer.* Before the preliminary CMC, counsel shall confer and  
11 seek consensus to the extent possible concerning the immediate issues and any other matters they  
12 wish to bring to the Court at this time. For plaintiffs, the Court designates:

13                  Eve H. Cervantez  
14                  Altshuler Berzon LLP  
15                  177 Post Street, Suite 300  
16                  San Francisco, CA 94108

17                  Andrew N. Friedman  
18                  Cohen Milstein Sellers & Toll PLLC  
19                  1100 New York Avenue, Suite 500  
20                  Washington, DC 98104

21                  These temporary designations are not a precursor of future appointments, but simply a means to  
22 initiate the process. The Court expects that all counsel desiring to do so will have a full  
23 opportunity to participate in the discussion and the report which the Court requests.

24                  2.3. *Preliminary Joint Case Management Statement.* Counsel listed above, in  
25 conjunction with counsel for Anthem, will submit to the Court by Tuesday, July 28, 2015, a  
26 preliminary joint case management statement not to exceed fifteen (15) pages in length. The joint  
27 statement should be filed in the master docket (No. 15-MD-02617) and include the following:

28                  • A brief discussion of the facts and the critical legal issues. Any potentially dispositive  
1 issues should be separately identified. These statements will not be binding, will not waive claims  
2 or defenses, and may not be offered into evidence against a party in later proceedings.  
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4                  • A proposed discovery plan, including a list of any outstanding discovery.  
5  
6                  • A list of all pending motions.  
7  
8                  • A list of all known related cases pending in state or federal court and their current  
9 status.

1                   • A list of all parents, subsidiaries, and companies affiliated with the corporate parties  
2 and of all counsel associated in the litigation to help the Court identify any problems of recusal or  
3 disqualification.

4                   The Court urges counsel to set forth their views in a single joint report that notes both consensus  
5 views and divergent views where appropriate.

6                   3. *Appointment of Lead Plaintiffs' Counsel.* The Court will hold a hearing on September  
7 10, 2015, at 1:30 p.m. to appoint lead plaintiffs' counsel. The Court will only consider attorneys  
8 who have filed an action in this litigation. Motions to serve as lead plaintiffs' counsel are due no  
9 later than August 20, 2015, and shall not exceed ten (10) pages in length. Oppositions are due  
10 August 27, 2015, and shall not exceed five (5) pages in length. Replies are due September 3,  
11 2015, and shall not exceed five (5) pages in length. The chief criteria for these appointments are:  
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13                   • Knowledge and experience in prosecuting complex litigation, including class actions;  
14                   • Willingness and ability to commit to a time-consuming process;  
15                   • Ability to work cooperatively with others; and  
16                   • Access to sufficient resources to prosecute the litigation in a timely manner.

17                   Where appropriate, applications should also set forth attorney fee proposals, rates, and percentages  
18 that applicants expect to seek if the litigation succeeds in creating a common fund.

19                   4. *Interim Measures.*

20                   4.1. *Admission of Counsel.* All attorneys admitted to practice and in good standing in  
21 any United States District Court are admitted *pro hac vice*. Association of local counsel is not  
22 required. If not already registered, counsel will need to register for electronic filing (CM/ECF) in  
23 the Northern District of California. (More information can be found on the Court's website.)

24                   4.2. *Preservation of Records.* Until the parties reach agreement on a plan for  
25 preservation of records, all parties and their counsel must preserve all evidence that may be  
26 relevant to these actions.

27                   4.3. *Stay of Motions Practice.* Except for motions for emergency relief, no motion shall  
28 be filed until and in accordance with the case schedule.

29                   4.4. *Orders of Transferor Courts.* All orders by transferor courts imposing dates for  
30 pleading or discovery are vacated.

31                   4.5. *Chambers Mailbox.* The Court maintains an electronic mailbox for  
32 communications with the Courtroom Deputy: [lhkcrd@cand.uscourts.gov](mailto:lhkcrd@cand.uscourts.gov). The only email  
33 communications that the parties or other interested individuals may have with the Courtroom  
34 Deputy are non-substantive scheduling communications and must include opposing counsel and  
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1 temporary plaintiffs' counsel as designated in section 2.2 then lead plaintiffs' counsel when  
2 appointed pursuant to section 3. All substantive issues must be discussed in filings with the Court.

3       4.6. *Website*. The Court intends to set up a website specific to this case.

4       4.7. *Filings*. All filings should be in the master docket (No. 15-MD-02617).

5       5. *Later Filed Cases*. This Order shall also apply to related cases later filed in, removed  
6 to, or transferred to this Court.

7       **IT IS SO ORDERED.**

8       Dated: July 6, 2015



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10       LUCY H. KOH  
11       United States District Judge